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No. 4490

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 93 LGN 75

Bangalore, dated 8th December 1975.

Ordered that the Karnataka Appellate Tribunal Ordinance, 1975 promulgated by the Governor of Karnataka in the Twenty-sixth Year of the Republic of India, be published as Karnataka Ordinance No. 22 of 1975 in the *Karnataka Gazette* for general information.

KARNATAKA ORDINANCE No. 22 OF 1975

THE KARNATAKA APPELLATE TRIBUNAL ORDINANCE, 1975

(Promulgated by the Governor of Karnataka in the Twenty-sixth Year of the Republic of India and first published in the *Karnataka Gazette*, Extraordinary, on the Eighth day of December, 1975).

An Ordinance to provide for the constitution of a single Appellate Tribunal for the State of Karnataka.

WHEREAS separate Appellate Tribunals have been constituted under the Karnataka Sales Tax Act, 1957, the Karnataka Co-operative Societies Act, 1959 and the Karnataka Land Revenue Act, 1964 for exercising the powers and performing the functions specified in the said Acts ;

WHEREAS it is considered expedient to have a single Appellate Tribunal for the State of Karnataka and to define the powers and functions of the said Tribunal and to provide for matters incidental thereto or connected therewith ;

WHEREAS the Karnataka Legislative Assembly is not in session and only the Karnataka Legislative Council is in session and the Governor of Karnataka is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Karnataka is pleased to promulgate the following Ordinance, namely :—

1. **Short title, extent and commencement**.—(1) This Ordinance may be called the Karnataka Appellate Tribunal Ordinance, 1975.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. **Definitions.**—In the Ordinance unless the context otherwise requires, —

(a) " member " means a member of the Tribunal ;

(b) " Tribunal " means the Karnataka Appellate Tribunal constituted under section 3.

3. **Constitution of the Tribunal.**—(1) The State Government shall, by notification, constitute for the State of Karnataka, an appellate Tribunal called the Karnataka Appellate Tribunal.

(2) The Tribunal shall consist of not less than six members. including the Chairman, appointed by the State Government

(3) Chairman, shall be an officer not below the rank of a Divisional Commissioner and of the remaining members as nearly as may be one-half shall be District Judges and the rest shall be Deputy Commissioners having administrative experience.

(4) If, by reason of any decrease in the business of the Tribunal or otherwise, it appears to the State Government that the number of members of the Tribunal should for the time be reduced, the State Government may, by notification, reduce the number of members.

4. **Principal seat of the Tribunal.**—(1) The principal seat of the Tribunal shall be at Bangalore.

(2) Notwithstanding anything contained in sub-section (1), benches of the Tribunal may, from time to time and subject to such conditions as may be prescribed, have sittings at such other places as the State Government may by notification specify.

5. **Powers of the Tribunal.**—(1) The Tribunal shall have all the powers which the Karnataka Sales Tax Appellate Tribunal. the Karnataka Co-operative Societies Appellate Tribunal and the Karnataka Revenue Appellate Tribunal had immediately before the commencement of this Ordinance under the Karnataka Sales Tax Act, 1957, the Karnataka Co-operative Societies Act, 1959 and the Karnataka Land Revenue Act, 1964 or under any other

law. Any reference in any law to the said Tribunals shall be construed as a reference to the Tribunal constituted under this Ordinance.

(2) The State Government may, by notification, confer upon or entrust to the Tribunal any appeal or revisional powers or functions assigned to the Government or other authority or officer by or under any law for the time being in force and the Tribunal shall be competent to exercise the powers or discharge the functions so conferred or entrusted.

6. **Conduct of business of the Tribunal.**—(1) The powers of the Tribunal in all matters relating to appeals, revisions and other proceedings shall, subject to the provisions of sub-sections (2) and (3) be exercised by a Bench of two members, of which one shall be District Judge constituted by the Chairman.

(2) A single member of the Tribunal may, subject to any special or general orders made in this behalf by the Chairman, exercise the powers of the Tribunal in respect of,—

(i) admission of an appeal or revision petition;

(ii) admission of an appeal or revision petition presented after the expiry of the period allowed by law;

(iii) stay orders pending disposal of an appeal, revision, reference or other proceedings;

(iv) any matter of an interlocutory character in appeals, revisions, references or other proceedings;

(v) such other matters and subject to such conditions as may be prescribed.

(3) The bench hearing any matter relating to,—

(*a*) the Department of Co-operation, shall consist of,—

(i) a District Judge; and

(ii) an officer of the Department of Co-operation not below the rank of a Joint Registrar of Co-operative Societies, co-opted by the Chairman;

(*b*) the Department of Commercial Taxes, shall consist of,—

(i) a District Judge; and

(ii) an officer of the Commercial Taxes Department not below the rank of a Deputy Commissioner of Commercial Taxes and a non-official who is an Accountant as defined in the Chartered Accountants Act, 1949 (Central Act 38 of 1949), co-opted by the Chairman.

(4) The power under sub-section (3) to co-opt shall be subject to such rules as may be prescribed and the remuneration payable to the person co-opted shall be as may be prescribed.

(5) Where an appeal, revision, reference or application is heard by a Bench, the appeal, revision, reference or application shall be decided in accordance with the opinion of the majority:

Provided that where the Bench hearing the appeal or application is composed of two members and the members composing the Bench differ in opinion on any point material for the decision of the case, they shall state such point and the case shall then be heard upon that point only by another member of the Tribunal and such point shall be decided according to the opinion of the majority of the members including those who first heard it.

7. Reference to full Bench.— (1) Notwithstanding anything contained in section 4, the Chairman may and if a Bench referred to in sub-section (1) or sub-section (3) of section 6 so thinks fit, shall, subject to such rules as may be prescribed, constitute a full Bench of such number of members as he may specify.

(2) The decision of the full Bench shall be in accordance with the opinion of the majority.

8. Power of review.—(1) The Tribunal may, either on its own motion or on the application of any party affected, review any order passed by itself and pass such orders in reference thereto as it deems necessary:

Provided that no such application shall be entertained unless the Tribunal is satisfied that there has been discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of such party or could not be produced by him at the time

12. State Representative .— (1) The State Government shall appoint as its representative before the Tribunal one or more officers with such designation as it may specify.

(2) Such officer or officers shall receive on behalf of the State Government notices issued by the Tribunal and have the right to appear, represent, act and plead on its behalf in such proceedings before the Tribunal, as the State Government may, by general or special order specify. They shall also perform such other duties and be subordinate to such officers as the State Government may direct.

13. Protection of action taken under this Ordinance.— No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rule made thereunder.

14. Power to make rules .—(1) The State Government may, by notification, and after previous publication, make rules to carry out the purpose of the Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may be made—

(*a*) prescribing the other matters and the conditions subject to which a single member may exercise the powers of the Tribunal ;

(*b*) prescribing the remuneration payable to the non-official co-opted by the Chairman ;

(*c*) prescribing the conditions subject to which Benches of the Tribunal may have sittings at places other than its principal seat.

(3) Every rule made under this Ordinance shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect

only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

15. **Power to make regulations.**—The Tribunal shall, after previous publication and with the previous sanction of the State Government, by notification, make regulations consistent with the provisions of this Ordinance, and the rules made thereunder for regulating generally the practice and procedure of the Tribunal and the disposal of its business including regulations as to the time within which, in the absence of any express provision in the relevant enactment, appeals or applications to the Tribunal may be filed and as to the costs of or incidental to any proceedings before the Tribunal.

16. **Transfer of pending proceedings.**—As from the date of commencement of this Ordinance, the Karnataka Co-operative Appellate Tribunal, the Karnataka Sales Tax Appellate Tribunal and the Karnataka Revenue Appellate Tribunal shall cease to function and all proceedings pending before the said Tribunals shall on that day stand transferred to the Tribunal constituted under this Ordinance and thereafter the provisions of this Ordinance shall be applicable to such proceedings as if such proceedings had been commenced before the Tribunal constituted under this Ordinance.

MOHANLAL SUKHADIA,
Governor of Karnataka.

By Order and in the name of the Governor of Karnataka,

M. L. RAMASWAMI,
Draftsman and Ex-Officio *Joint Secretary to Government, Department of Law and Parliamentary Affairs.*

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